

FEDERAL RESERVE SYSTEM

The Royal Bank of Scotland Group plc  
Edinburgh, Scotland

The Royal Bank of Scotland plc  
Edinburgh, Scotland

RBSG International Holdings Ltd.  
Edinburgh, Scotland

Citizens Financial Group, Inc.  
Providence, Rhode Island

Order Approving the Acquisition of a Bank Holding Company

The Royal Bank of Scotland Group plc (“RBS Group”), The Royal Bank of Scotland plc (“RBS”), RBSG International Holdings Ltd. (“RBSG”), and Citizens Financial Group, Inc. (“Citizens Financial”) (collectively, “Applicants”) have requested the Board’s approval under section 3 of the Bank Holding Company Act (12 U.S.C. § 1842) (“BHC Act”) to merge with Charter One Financial, Inc. (“Charter One”) and to acquire its subsidiary bank, Charter One Bank, National Association (“Charter One Bank”), both in Cleveland, Ohio.<sup>1</sup>

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (69 Federal Register 29,538 (2004)). The time for filing comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in section 3 of the BHC Act.

RBS Group, with total consolidated assets of approximately

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<sup>1</sup> Citizens Financial, a financial holding company, proposes to acquire Charter One’s nonbanking subsidiaries pursuant to section 4(k) of the BHC Act and the post-transaction notice procedures of section 225.87 of Regulation Y. 12 U.S.C. § 1843(k); 12 C.F.R. 225.87.

\$812.3 billion, is the fifth largest banking organization in the world.<sup>2</sup> Citizens Financial, with total consolidated assets of approximately \$80 billion, is the 20th largest depository organization in the United States, controlling approximately \$61.5 billion in deposits, which represents less than 1 percent of the total amount of deposits of insured depository institutions in the United States.<sup>3</sup> Citizens Financial operates subsidiary depository institutions in Connecticut, Delaware, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont and engages in nonbanking activities that are permissible under the BHC Act.

Charter One, with total consolidated assets of approximately \$41 billion, is the 30th largest depository organization in the United States. Charter One's subsidiary depository institution controls deposits of \$27 billion, representing less than 1 percent of the total amount of deposits of insured depository institutions in the United States, and engages in a broad range of permissible nonbanking activities nationwide.

On consummation of the proposal, Citizens Financial would become the 13th largest depository organization in the United States, with total consolidated assets of approximately \$121 billion and total deposits of \$88.5 billion, which represent approximately 1.4 percent of the total amount of deposits of insured depository institutions in the United States.

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<sup>2</sup> Worldwide and national asset data are as of March 31, 2004, and ranking data are as of December 31, 2003.

<sup>3</sup> Deposit data are as of June 30, 2003, and reflect the unadjusted total of the deposits reported by each organization's insured depository institutions in their Consolidated Reports of Condition and Income for June 30, 2003. In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

### Interstate Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the home state of such bank holding company if certain conditions are met.<sup>4</sup> For purposes of the BHC Act, the home state of Citizens Financial is Rhode Island, and Charter One's subsidiary bank is located in Connecticut, Illinois, Indiana, Massachusetts, Michigan, New Hampshire, New York, Ohio, Pennsylvania, and Vermont.<sup>5</sup>

All the conditions for an interstate acquisition enumerated in section 3(d) of the BHC Act are met in this case. Citizens Financial currently is adequately capitalized and adequately managed, as defined by applicable law,<sup>6</sup> and would remain so on consummation of the proposal. Charter One Bank has existed and operated for at least the minimum age requirements established by applicable state law.<sup>7</sup> On consummation of the proposal, Citizens Financial and its affiliates would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States and less than 30 percent, or the appropriate percentage established by applicable state law, of the total amount of deposits of insured depository institutions in each state in which both institutions

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<sup>4</sup> A bank holding company's home state is the state in which the total deposits of all subsidiary banks of the company were the largest on the later of July 1, 1966, or the date on which the company became a bank holding company. 12 U.S.C. § 1841(o)(4)(C).

<sup>5</sup> For purposes of section 3(d), the Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. See 12 U.S.C. §1841(o)(4)-(7) and §1842(d)(1)(A) and (d)(2)(B).

<sup>6</sup> See 12 U.S.C. § 1842(d)(1)(A).

<sup>7</sup> See 12 U.S.C. § 1842(d)(1)(B).

currently are located.<sup>8</sup> All other requirements of section 3(d) would be met in this case. Accordingly, based on all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

### Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or that would further any attempt to monopolize the business of banking in any relevant banking market. It also prohibits the Board from approving a proposal that would substantially lessen competition in any relevant banking market unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.<sup>9</sup>

Citizens Financial and Charter One compete directly in nine local banking markets in Connecticut, Massachusetts, New Hampshire, New York, Pennsylvania, and Vermont, including six markets where Charter One opened a branch on or after June 30, 2003.<sup>10</sup> The Board has reviewed the competitive

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<sup>8</sup> See 12 U.S.C. § 1842(d)(2)(A) and (B).

<sup>9</sup> 12 U.S.C. § 1842(c)(1).

<sup>10</sup> These banking markets are described in Appendix A. Deposit and market share data are based on Summary of Deposits reports filed as of June 30, 2003, and on calculations in which the deposits of thrift institutions are included at 50 percent. The Board has indicated previously that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the calculation of market share on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

effects of the proposal in each of these banking markets in light of all the facts of record. In particular, the Board has considered the number of competitors that would remain in the markets, the relative share of total deposits in depository institutions controlled by Citizens Financial and Charter One in the markets (“market deposits”), the concentration level of market deposits and the increase in this level as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Merger Guidelines (“DOJ Guidelines”), and other characteristics of the markets.

Consummation of the proposed acquisition of Charter One would be consistent with Board precedent and the DOJ Guidelines in all nine banking markets.<sup>11</sup> As noted, Charter One has opened branches in the following banking markets after June 30, 2003, and controls less than ½ of 1 percent of market deposits in each market: Boston, Pittsfield, and Worcester, all in Massachusetts; Metropolitan New York Area; Erie, Pennsylvania; and Hartford, Connecticut. Accordingly, the impact on competition in these markets would be de minimis. Consummation of the proposal also would be consistent with Board precedent and the DOJ Guidelines in the remaining banking markets where both institutions

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<sup>11</sup> Under the DOJ Guidelines, 49 Federal Register 26,823 (1984), a market is considered unconcentrated if the post-merger HHI is under 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI is more than 1800. The Department of Justice has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The Department of Justice has stated that the higher than normal HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial institutions. Market data for each banking market are provided in Appendix B.

compete: Springfield, Massachusetts; Hanover-Lebanon, New Hampshire; and Brattleboro, Vermont. Moreover, numerous competitors would remain in all the banking markets.

The Department of Justice has reviewed the proposal and advised the Board that consummation would not likely have a significantly adverse effect on competition in any relevant market. The appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on these and all other facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of banking resources in the nine banking markets discussed above or in any other relevant banking market. Accordingly, based on all the facts of record, the Board has determined that the competitive effects are consistent with approval.

#### Financial, Managerial, and Supervisory Considerations

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and depository institutions involved in the proposal and certain other supervisory factors. The Board has carefully considered these factors in light of all the facts of record, including reports of examination, other confidential supervisory information received from the primary federal banking agency that supervises each institution, information provided by Citizens Financial, publicly reported and other financial information, and comments received on the proposal.<sup>12</sup> In addition, the Board has

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<sup>12</sup> Various commenters expressed concerns about the following matters: (1) press reports stating that RBS Group is a defendant in litigation involving the former government's apartheid policies in South Africa, and (2) allegations that individuals at Charter One and RBS Group engaged in illegal options trading close to the proposal's announcement. The first matter is not within the Board's jurisdiction to adjudicate and is not related to the limited statutory factors the

consulted with the Federal Deposit Insurance Corporation (“FDIC”) and the Office of the Comptroller of the Currency (“OCC”), the primary federal supervisors of Citizens Financial’s subsidiary banks and Charter One Bank, respectively, and relevant supervisory authorities in the United Kingdom.<sup>13</sup>

In evaluating financial factors in expansion proposals by banking organizations, the Board consistently has considered capital adequacy to be especially important. Citizens Financial, Charter One, and their subsidiary depository institutions are well capitalized and will remain so on consummation of the proposal. In addition, the capital ratios of RBS would continue to exceed the minimum levels that would be required under the Basel Capital Accord, and RBS Group’s capital levels are considered equivalent to those that would be required of a U.S. banking organization. The Board finds that the organization has sufficient financial resources to effect the proposal.

The Board has considered the managerial resources of RBS and Charter One, particularly the supervisory experience and assessments of management by the various bank supervisory agencies and the organizations’

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Board may consider when reviewing an application under the BHC Act. See, e.g., Deutsche Bank AG, 85 Federal Reserve Bulletin 509 (1999); see also Western Bancshares, Inc. v. Board of Governors, 480 F.2d 749 (10<sup>th</sup> Cir. 1973) (“Western Bancshares”). The Securities and Exchange Commission (“SEC”), rather than the Board, has jurisdiction to investigate the second allegation and to adjudicate if any violations of federal securities laws have occurred. The Board has consulted with the SEC regarding this allegation.

<sup>13</sup> One commenter, citing a press report, alleged that RBS Group violated U.S. trade sanctions through its activities in Iraq and elsewhere. The Board has considered these allegations in light of confidential supervisory information and consultations with the FDIC and other appropriate supervisory authorities, including confidential compliance examinations of the Citizens Financial subsidiary banks that included a review of each institution’s compliance with the applicable regulations of the Office of Foreign Assets Control.

records of compliance with applicable banking laws.<sup>14</sup> The Board also has carefully reviewed the examination records of Citizens Financial, Charter One, and their subsidiary depository institutions, including assessments of their risk-management systems.<sup>15</sup> In addition, the Board has considered Citizens Financial's plans for integrating the proposed acquisition, including its available managerial resources and proposed management after consummation, and the company's record of successfully integrating recently acquired institutions into its existing operations. Based on these and all the facts of record, the Board concludes that the financial and managerial resources of the organizations involved in the proposal are consistent with approval under the BHC Act.<sup>16</sup>

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<sup>14</sup> A commenter opposing the proposal cited a press report of RBSG's connection to investigations, lawsuits, and settlements relating to a foreign subsidiary of RBSG and Enron Corporation and asserted that these issues reflected unfavorably on the managerial resources of RBSG. The Board has considered this comment in light of the measures that RBSG has taken and is continuing to take to address these matters and to strengthen the company's risk-management practices; the information available to RBSG's management at the time; the experience, policies, and procedures of its management; and confidential supervisory information.

<sup>15</sup> One commenter expressed concern about RBS Group's financing of various activities and projects worldwide that allegedly damage the environment or cause other social harm. This concern was previously addressed by the Board in connection with its approvals of Applicants' other recent proposals. The Board noted in those approvals, and affirms in this case, that the comment contains no allegations of illegality or of actions that would affect the safety and soundness of the institutions involved and is outside the limited statutory factors that the Board is authorized to consider when reviewing an application under the BHC Act. See The Royal Bank of Scotland Group plc, 90 Federal Reserve Bulletin 87, 88 n.16 (2004) ("Thistle Order"); The Royal Bank of Scotland Group plc, 89 Federal Reserve Bulletin 386, 389 n.26 (2003) ("Port Financial Order"); The Royal Bank of Scotland Group plc, 88 Federal Reserve Bulletin 51, 57 n.32 (2002) ("Mellon Order"). See also Western Bancshares.

<sup>16</sup> A commenter also criticized RBS's subsidiary, Greenwich Capital Markets,



Section 3 of the BHC Act also provides that the Board may not approve an application involving a foreign bank unless the bank is subject to comprehensive consolidated supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.<sup>17</sup> The home country supervisor of RBS Group is the Financial Services Authority ("FSA"), which is responsible for the supervision and regulation of United Kingdom financial institutions.

In approving applications under the BHC Act and the International Banking Act ("IBA"),<sup>18</sup> the Board previously has determined that various banks in the United Kingdom, including RBS, were subject to home country supervision on a consolidated basis by the FSA. In this case, the Board finds that the FSA continues to supervise RBS in substantially the same manner as it supervised

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Greenwich, Connecticut ("Greenwich Capital"), for lobbying against state and local efforts to enact and enforce antipredatory-lending laws and ordinances. The Board notes that the commenter failed to allege or provide any evidence that RBS or Greenwich Capital engaged in any illegal predatory lending activities; engaged in any illegal activity or other action that has affected, or might reasonably be expected to affect, the safety and soundness of the institutions involved in this proposal; or engaged in any illegal activity or other action related to the other factors that the Board is authorized to consider under the BHC Act.

<sup>17</sup> 12 U.S.C. § 1842(c)(3)(B). Under Regulation Y, the Board uses the standards enumerated in Regulation K to determine whether a foreign bank that has applied under section 3 of the BHC Act is subject to consolidated home country supervision. See 12 C.F.R. 225.13(a)(4). Regulation K provides that a foreign bank will be considered subject to comprehensive supervision or regulation on a consolidated basis if the Board determines that the bank is supervised or regulated in such a manner that its home country supervisor receives sufficient information on the worldwide operations of the bank, including its relationship to any affiliates, to assess the bank's overall financial condition and its compliance with law and regulation. See 12 C.F.R. 211.24(c)(1).

<sup>18</sup> 12 U.S.C. § 3101 et seq.

United Kingdom banks at the time of those determinations.<sup>19</sup> Based on this finding and all the facts of record, the Board concludes that RBS continues to be subject to comprehensive supervision on a consolidated basis by its home country supervisor.

In addition, section 3 of the BHC Act requires the Board to determine that a foreign bank has provided adequate assurances that it will make available to the Board such information on its operations and activities and those of its affiliates that the Board deems appropriate to determine and enforce compliance with the BHC Act.<sup>20</sup> The Board has reviewed the restrictions on disclosure in relevant jurisdictions in which RBS Group operates and has communicated with relevant government authorities concerning access to information. In addition, RBS Group and its affiliates previously have committed to make available to the Board such information on the operations of RBS Group and its affiliates that the Board deems necessary to determine and enforce compliance with the BHC Act, the IBA, and other applicable federal law. RBS Group and RBS also previously have committed to cooperate with the Board to obtain any waivers or exemptions that may be necessary to enable RBS Group and its affiliates to make such information available to the Board. In light of these commitments, the Board concludes that RBS Group and RBS have provided adequate assurances of access to any appropriate information that the Board may request. Based on these and all the facts of record, the Board concludes that the supervisory factors it is required to consider are consistent with approval.<sup>21</sup>

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<sup>19</sup> See HBOS Treasury Services plc, 90 Federal Reserve Bulletin 103 (2004); see also Port Financial Order.

<sup>20</sup> See 12 U.S.C. § 1842(c)(3)(A).

<sup>21</sup> Two commenters cited press reports alleging that RBS Group does not maintain

### Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board is required to consider the effects of the proposal on the convenience and needs of the communities to be served and to take into account the records of the relevant insured depository institution under the Community Reinvestment Act (“CRA”).<sup>22</sup> The CRA requires the federal financial supervisory agencies to encourage financial institutions to help meet the credit needs of local communities in which they operate, consistent with their safe and sound operation, and requires the appropriate federal financial supervisory agency to take into account an institution’s record of meeting the credit needs of its entire community, including low- and moderate-income (“LMI”) neighborhoods, in evaluating bank expansionary proposals.<sup>23</sup>

The Board has considered carefully the convenience and needs factor

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adequate antimoney-laundering controls or that foreign regulators have fined RBS Group for noncompliance with money-laundering regulations. The commenter also cited press reports that RBS Group allegedly has furnished financial services to terrorist organizations. These allegations were previously considered by the Board and, as explained in the Port Financial Order, the Board concluded that the financial, managerial, and other supervisory factors were consistent with approval. See Port Financial Order, supra at 390 n.27. The commenters provided no new material information that was not already part of the record considered by the Board in that order.

<sup>22</sup> 12 U.S.C. § 2901 et seq.

<sup>23</sup> A commenter expressed concern that the proposal may result in loss of jobs. The effect of a proposed transaction on employment in a community is not among the factors that the Board is authorized to consider under the BHC Act, and the federal banking agencies, courts, and the Congress consistently have interpreted the convenience and needs factor to relate to the effect of a proposal on the availability and quality of banking services in the community. See, e.g., Wells Fargo & Company, 82 Federal Reserve Bulletin 445, 457 (1996).

and the CRA performance records of the subsidiary banks of Citizens Financial and Charter One in light of all the facts of record, including comments received on the proposal.<sup>24</sup> Ten commenters opposed the proposal and collectively asserted that Citizens Financial and Charter One needed to provide more prime-rate home mortgage loans to LMI and minority individuals, more small business loans to businesses owned by minority individuals or women, and more community development investments in LMI and minority communities.<sup>25</sup> Commenters also asserted that the data reported under the Home Mortgage Disclosure Act (“HMDA”)<sup>26</sup> indicated that Citizens Financial and Charter One engaged in

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<sup>24</sup> Several commenters urged the Board to encourage or require Citizens Financial to make CRA-related commitments to certain community development organizations and to establish an advisory board to promote community development. The Board has consistently found that neither the CRA nor the federal banking agencies’ CRA regulations require depository institutions to make pledges or enter into commitments or agreements with any organization. See, e.g., J. P. Morgan Chase and Co., 90 Federal Reserve Bulletin \_\_\_\_ (Order dated June 14, 2004); Citigroup Inc., 88 Federal Reserve Bulletin 485 (2002). Several commenters also suggested that Citizens Financial should make more charitable contributions or commit a specific percentage of profits to philanthropic contributions. The Board notes that neither the CRA nor the agencies’ implementing rules require that financial institutions engage in any type of philanthropy.

<sup>25</sup> Commenters also expressed concern about press reports of alleged discrimination by RBSG’s management against minority employees and Citizens Financial’s record of hiring minorities and awarding supplier contracts to minority- and women-owned businesses. The Board previously has stated that its limited jurisdiction to review applications under the BHC Act does not authorize the Board to adjudicate disputes involving an applicant that arise under statutes administered and enforced by another agency in areas such as employment discrimination. See, e.g., Norwest Corporation, 82 Federal Reserve Bulletin 580 (1996); see also Western Bancshares.

<sup>26</sup> 12 U.S.C. §2801 et seq.

disparate treatment of African-American, Hispanic, and LMI individuals in their home mortgage lending operations. In addition, several commenters expressed concern about possible branch closings.<sup>27</sup>

A. CRA Performance Evaluations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of the evaluations by the appropriate federal supervisors of the CRA performance records of the relevant insured depository institutions. An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisor.<sup>28</sup> The Board recently reviewed the CRA performance records of the insured depository institutions controlled by Citizens Financial (the "Citizens Banks") and found those records to be consistent with approval of a bank expansion proposal. Citizens CT, Citizens MA, Citizens NH, and Citizens RI (collectively "Citizens New England Banks") were all rated "outstanding" at their most recent CRA performance evaluations by the FDIC, as of December 2, 2002. In addition, Citizens Bank of Delaware ("Citizens DE") and Citizens Bank of Pennsylvania ("Citizens PA") received "outstanding" ratings in their most recent CRA performance evaluations by the FDIC, as of November 12,

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<sup>27</sup> Two commenters noted consumer complaints involving transactions at some of Citizens Financial's subsidiary banks or involving transactions outside the United States at RBSG's foreign subsidiary bank. These comments concern individual accounts and particular transactions, and the comments involving the Citizens Banks have been forwarded to the FDIC, the primary federal supervisor of the banks.

<sup>28</sup> See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

2003.<sup>29</sup> Charter One Bank received a “satisfactory” rating at its most recent CRA performance evaluation by the Office of Thrift Supervision (“OTS”), as of May 14, 2001.<sup>30</sup>

Citizens Financial has stated that on consummation of the proposal, it would implement the Citizens Banks’ CRA-related programs, policies, and procedures at Charter One Bank. In addition, Citizens Financial would augment Charter One Bank’s existing products and services, including those products and services designed to serve the needs of LMI individuals and LMI communities. In addition, Citizens Financial anticipates integrating Charter One’s community development lending and investment activities with those of the Citizens Financial Community Development Corporation.

#### B. CRA Performance of the Citizens Banks

Citizens New England Banks. As noted, the Citizens New England Banks each received an overall “outstanding” rating in its most recent CRA performance evaluations.<sup>31</sup> Under the lending test, each bank was rated

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<sup>29</sup> The CRA performance ratings of the Citizens Banks are provided in Appendix C. Boston Trust & Management Investment Company, a subsidiary of Citizens Financial, is a limited-purpose trust company and, therefore, not subject to the CRA.

<sup>30</sup> Charter One Bank converted to a national charter in 2002. The OCC has been monitoring the bank’s CRA performance in the course of its ongoing supervisory process since its conversion. The Board has consulted with the OCC on its most recent evaluations of Charter One Bank. The OCC plans to conduct its first CRA examination of the bank in mid-2005.

<sup>31</sup> The evaluation period for the Citizens New England Banks was October 12, 1999, through December 2, 2002, although the evaluation considered the HMDA-reportable loans of the Citizens New England Banks and Citizens Mortgage Corporation (“CMC”), a subsidiary of Citizens RI, and the small business loans of the Citizens New England Banks, from January 2000 through September 2002. “HMDA-reportable loans” include home purchase, home

“outstanding,” except Citizens CT, which received a “high satisfactory” rating. Examiners commended the Citizens New England Banks for good dispersion of loans among customers of different income levels and businesses of different sizes based on annual revenues.

In addition, examiners commended the Citizens New England Banks for offering a variety of innovative and flexible lending programs to help make their products available to LMI residents in their assessment areas.<sup>32</sup> Since their last CRA evaluations, the Citizens New England Banks have continued their substantial levels of lending to LMI and minority individuals. In 2003, the banks made more than 1,360 affordable mortgage loans totaling approximately \$127 million.

Examiners also commended the Citizens New England Banks for their small business lending activities. Citizens MA was praised for its excellent responsiveness to the credit needs of small businesses in all portions of its assessment area, especially those in LMI census tracts. Examiners particularly commended Citizens MA for increasing the number of lending personnel to expand the bank’s small business loan portfolio, which enabled the bank to become the leading lender for loans approved by the Small Business Administration (“SBA”) in Massachusetts in 2001 and 2002. Examiners noted that Citizens CT was the second largest SBA lender in Connecticut during the evaluation period, even though the bank did not operate in Hartford or Bridgeport, which are two of

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refinance, home improvement, and multifamily loan categories.

<sup>32</sup> One commenter called on Citizens to offer LMI individuals “Individual Development Accounts,” which provide a means to educate accountholders in financial matters while matching their investments with grants. Neither the CRA nor the federal banking agencies’ CRA regulations require depository institutions to provide any specific types of banking products.

the larger cities in Connecticut. Examiners also praised Citizens RI for making a greater proportion of its small business loans in LMI areas than other lenders made in its assessment area. In addition, examiners commended Citizens NH for its streamlined application process, which helped increase the bank's small business loan originations in its assessment area. Citizens NH has authorized its small business loan officers to make lending decisions for loans of up to \$250,000 at the branch level and to notify potential borrowers within 24 hours.

Citizens Financial reported that the Citizens New England Banks have continued their significant small business lending since 2002, including in LMI census tracts. In 2003, the Citizens New England Banks made approximately 2,460 loans to small businesses<sup>33</sup> in LMI census tracts that totaled more than \$213 million.

Examiners also commended the community development lending activity of the Citizens New England Banks. Examiners characterized Citizens MA's level of community development lending as very significant. Among the more than \$81 million in qualified community development loans the bank extended during the assessment period, examiners specifically noted Citizens MA's \$6 million loan to a nonprofit agency that constructed 22 duplexes to provide affordable housing for seniors in Sudbury, Massachusetts. Examiners also favorably noted Citizens CT's high level of community development lending and highlighted the bank's \$1.25 million loan to a nonprofit corporation to provide housing services to LMI individuals.

Citizens Financial reported that the Citizens New England Banks have

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<sup>33</sup> In this context, "loans to small businesses" includes loans with originated amounts of \$1 million or less that are either secured by nonfarm, nonresidential properties or are classified as commercial and industrial loans.



continued their substantial level of community development lending since 2002. In 2003, the banks made community development loans totaling almost \$152 million to various organizations that support affordable housing development, economic development, and job creation.

The Citizens New England Banks each received an “outstanding” rating on the investment test in its most recent CRA performance evaluations. Examiners found that each bank demonstrated an excellent level of qualified community development investments, which reflected outstanding responsiveness to the credit and community development needs of its assessment area. Citizens MA made more than \$85 million in qualified community development investments, which included a \$1.7 million investment in 36 affordable housing units in Sandwich, Massachusetts. Examiners commended Citizens CT for its grant program offering down-payment and closing-cost assistance to LMI individuals. Examiners particularly noted that Citizens RI invested \$1.5 million in the Rhode Island Housing Equity Pool, which funds nonprofit organizations that provide LMI housing, and a \$4 million investment by Citizens NH in affordable housing projects created through low-income-housing tax credits.

The Citizens New England Banks have continued a high level of community development investments since their last CRA performance evaluations. In 2003, the Citizens New England Banks made approximately 116 community development investments totaling more than \$19 million. These investments were provided to numerous organizations in each bank’s assessment area that supported objectives such as neighborhood revitalization, financial education, and technical assistance and training to small businesses.

In addition, the Citizens New England Banks each received “outstanding” ratings under the service test at its most recent CRA performance

evaluations. Examiners reported that Citizens MA provided a high level of retail and community development services, made its services available to geographies and individuals of all income levels, and tailored its services to the convenience and needs of its assessment area. Examiners similarly commended Citizens CT, noting that the bank's website provided customers with access to the loan application process and discussions with financial advisors, banking experts, and community representatives. Citizens RI received very favorable comments from examiners for having the most extensive branch network in Rhode Island, bilingual branch personnel, and extended hours to improve customer access to its services. Examiners also reported that Citizens NH provided an excellent level of community development services during the evaluation period and highlighted the bank's use of focus groups to obtain community feedback on its planned products and programs.

Citizens DE. As noted above, Citizens DE received an overall "outstanding" rating for CRA performance at its most recent CRA performance evaluation. The bank also received an "outstanding" rating under each of the lending, investment, and service tests.

Examiners found that Citizens DE exhibited an excellent level of responsiveness to the credit and community development needs of its assessment areas.<sup>34</sup> During the evaluation period, Citizens DE originated or purchased more than 3,100 HMDA-reportable home mortgage loans totaling approximately

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<sup>34</sup> The assessment areas of Citizens DE encompassed Wilmington, Dover, and the nonmetropolitan portion of Delaware. Examiners noted, however, that no LMI geographies were in the Dover Metropolitan Statistical Area ("MSA") or the non-MSA portion of Delaware. The evaluation period was December 1, 2001, through November 12, 2003, although the evaluation considered the HMDA-reportable loans of Citizens DE and CMC and the small business loans of Citizens DE from January 2002 through September 2003.

\$437 million in its assessment areas. Examiners reported that the geographic distribution of HMDA-reportable home mortgage and small business loans reflected good penetration throughout the bank's assessment areas, including LMI census tracts. Examiners also noted that the bank exhibited excellent distribution of HMDA-reportable home mortgage and small business loans to borrowers of different income levels and businesses of different sizes by annual revenue.

In addition, examiners commended Citizens DE for developing a mortgage loan program with flexible underwriting standards, including several products for first-time homebuyers that assisted in meeting the credit needs of its assessment areas. For example, the examiners cited the Citizens Neighborhood Plus program that offers a 30-year fixed rate for LMI borrowers or properties in LMI census tracts. The program is tailored to meet the needs of LMI applicants and offers an interest rate discount of 1 percent for low-income borrowers and properties in low-income census tracts, with grants of up to \$2,000 for qualified borrowers.

During the evaluation period, Citizens DE originated more than 600 small business loans that totaled approximately \$88 million. Examiners commended the bank's small business lending activity and reported that the bank's distribution of loans among businesses of different sizes by annual revenue in its assessment areas was good. In addition, examiners noted that Citizens DE was an active participant in the SBA's loan programs.

Examiners reported that Citizens DE achieved an outstanding level of community development lending and exercised leadership in addressing community development credit needs in its assessment areas. During the evaluation period, Citizens DE originated or purchased six community development loans that totaled \$8.9 million. These loans included a \$2.5 million loan to a statewide, nonprofit multibank community development

corporation that finances and invests in housing and related activities to assist LMI persons and areas throughout Delaware.

During the evaluation period, the bank made investments and grants totaling \$6.8 million that funded affordable housing, social services, and small business initiatives in its assessment areas. Examiners reported that Citizens DE's amount of investments and the range of initiatives supported through its charitable contributions demonstrated the bank's outstanding level of commitment to community development activities.

Citizens DE received an "outstanding" rating under the service test. Examiners reported that the bank's retail delivery systems were reasonably accessible to all parts of its assessment areas, including LMI households. In addition, examiners characterized Citizens DE as a leader in providing community development services in its assessment areas. Examiners favorably noted that Citizens DE employed a full-time CRA Officer to manage the bank's community development efforts.

Citizens PA. As previously noted, Citizens PA received an overall "outstanding" rating for performance under the CRA. The bank also received an "outstanding" rating under each of the lending, investment, and service tests.

Examiners found that Citizens PA exhibited an excellent level of responsiveness to the credit and community development needs of its assessment areas. They noted that the bank's distribution of HMDA-reportable mortgage and small business loans among geographies of different income levels was well dispersed and that the bank also provided excellent loan distribution to LMI borrowers and small businesses. During the evaluation period, Citizens PA originated or purchased more than 33,000 HMDA-reportable home mortgage loans

totaling almost \$4.3 billion in its assessment areas.<sup>35</sup>

In addition, examiners commended Citizens PA for its extensive use of innovative and flexible lending practices that addressed the credit needs of LMI individuals and geographies, as well as those of small businesses. In addition to the Citizens Neighborhood Plus lending products, Citizens PA offered several programs sponsored by the Federal Housing Administration and the Federal National Mortgage Association for the purchase of owner-occupied primary residences. Examiners noted that these programs served LMI individuals by offering loans requiring little or no down-payment and featuring flexible underwriting terms and a temporary reduction in principal and interest payments.

During the evaluation period, Citizens PA originated more than 9,000 small business loans that totaled almost \$1 billion in its assessment areas. Examiners noted that the distribution of small business loans among businesses of different sizes by annual revenue was strong in all the bank's assessment areas. They also noted that Citizens PA was the leading SBA lender in Pennsylvania and that its small business lending volume exceeded that of other lenders in the Philadelphia PMSA.

Examiners reported that Citizens PA was a leader in community development lending and extended a significant level of community development loans in its assessment areas. During the evaluation period, Citizens PA originated

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<sup>35</sup> The assessment areas selected for a full-scope review of Citizens PA included the Philadelphia Primary Metropolitan Statistical Area ("PMSA") and the Pittsburgh MSA. These areas accounted for a majority of the assessment areas' population, LMI census tracts, and LMI households, as well as a majority of the bank's branches, loans, and deposits. The evaluation period was December 1, 2001, through November 12, 2003, although the review considered the HMDA-reportable loans of Citizens PA and CMC, and the small business loans of Citizens PA, from January 2002 through September 2003.

48 community development loans totaling \$62 million. These loans included a \$7.7 million loan used to refinance mortgages for 262 units of affordable rental housing in several buildings in the University City area of West Philadelphia.

Examiners noted that the bank had an excellent level of qualified investments in community development that were responsive to the needs of its assessment areas, including significant investments in affordable housing, community development initiatives, and financial education initiatives. During the evaluation period, the bank made investments that totaled \$90.4 million in its assessment areas.

Examiners commended Citizens PA's performance for providing an excellent level of retail and community development services throughout its assessment areas. They reported that the bank's retail delivery systems were readily accessible to all portions of its assessment areas, including LMI households, and particularly noted the bank's bilingual ATM network. Examiners also characterized Citizens PA as a leader in providing community development services and commended the bank's CRA staff for being actively involved and the high levels of employee representation for the extent to which they served on the boards of local community development organizations.

### C. CRA Performance of Charter One Bank

As noted above, Charter One Bank received an overall "satisfactory" rating for performance under the CRA from the OTS, as of May 2001.<sup>36</sup> The

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<sup>36</sup> The evaluation period was April 1, 1998, through March 31, 2001, for the bank's assessment areas in Ohio, Michigan, and New York (Rochester and Buffalo). For the remaining assessment areas, the evaluation period was January 1, 1999, to March 31, 2001. Examiners noted that the institution's overall rating was derived from Charter One Bank's performance in its Ohio, Michigan, and New York assessment areas, which constituted the substantial majority of its resources and operations during this period.

institution received an overall “low satisfactory” rating under the lending test. During the evaluation period, Charter One Bank purchased or originated more than 33,000 HMDA-reportable loans that totaled more than \$11 billion.<sup>37</sup> Examiners characterized Charter One Bank’s overall lending to borrowers of all income levels as adequate. Although examiners noted Charter One Bank’s “poor” geographic distribution of loans, they found that it had an overall good level of small business lending and an overall high level of community development lending.

During the evaluation period, Charter One Bank purchased or originated more than 1,900 small business loans that totaled approximately \$311 million. These small business loans totaled approximately \$126 million in New York and approximately \$72 million in Ohio.<sup>38</sup> Examiners particularly commended Charter One Bank’s support for small business lending in Albany, citing its lines of credit totaling \$16 million to a financial intermediary that provides financing to small businesses and is a major source of loans to businesses owned by women and minorities.

Examiners also commended Charter One Bank for its overall high level of community development lending and its particularly strong performance in Ohio and New York. They noted that Charter One Bank’s community development lending focused on assisting the development of affordable housing and the promotion of economic development to revitalize LMI areas in its assessment areas. During the evaluation period, Charter One Bank originated more than 90 community development loans that totaled more than \$170 million,

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<sup>37</sup> Charter One elected not to include loans by its subsidiaries, Charter One Mortgage Corporation or Charter One Credit Corporation, in these HMDA-reportable loans.

<sup>38</sup> Two commenters criticized Charter One for failing to provide adequate support to micro-credit organizations and small businesses.

including loans totaling \$93 million in Ohio and more than \$63 million in New York. Examiners noted favorably that Charter One Bank provided \$10.8 million in loans to finance housing projects benefiting low-income and disabled individuals in Rochester and loans totaling \$4.4 million to finance the revitalization of a low-income area of Buffalo.<sup>39</sup> In Detroit, the institution made a \$2.9 million loan to finance the construction of 50 single-family-housing rental units, which were made available to families whose incomes were at or below 60 percent of the area median family income in Detroit.

Charter One represented that since converting to a national bank charter in 2002, it has taken steps to improve its lending to LMI and minority borrowers and in LMI and predominantly minority communities. Among other changes, Charter One Bank stated that it substantially increased the number of community loan officers working in its major lending markets. In addition, the bank introduced special financial incentives to branch personnel who refer home purchase or refinance mortgage loans in LMI areas to its mortgage operations and to community loan officers for loans they originate with low-income borrowers or in low-income census tracts. Charter One Bank also enhanced its efforts to lend more to minorities through increased print and radio advertising that focuses on minority communities.

Charter One stated that since the bank's most recent examination, the bank has increased lending to LMI borrowers and in LMI and minority census tracts<sup>40</sup> in its major assessment areas. In 2002, Charter One Bank originated more

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<sup>39</sup> Some commenters asserted that Charter One neglected the community reinvestment and credit needs of New York after its recent acquisitions and mergers. The Board has reviewed Charter One Bank's lending data since its most recent acquisitions in light of these comments.

<sup>40</sup> In this context, "minority census tracts" means census tracts with a minority



than 15,000 HMDA-reportable loans totaling approximately \$1.5 billion to LMI borrowers and borrowers in LMI and minority census tracts in its major assessment areas. In 2003, those loans increased to more than 26,400 HMDA-reportable loans that totaled approximately \$2.4 billion.

Charter One Bank received a “high satisfactory” rating under the investment test. During the evaluation period, Charter One Bank made more than 50 community development investments that totaled more than \$11.2 million in its assessment areas. In Ohio, examiners also reported that the institution made more than 25 community development investments totaling \$1.7 million, which were primarily investments that qualified for low-income-housing tax credits. In New York, Charter One Bank made at least seven community development investments that totaled more than \$5 million.

Charter One stated that the bank has made numerous investments in a variety of organizations and programs in the bank’s assessment areas since its most recent examination. In 2002, Charter One Bank provided more than \$55 million in investments to organizations involved in creating jobs, affordable housing, and economic development projects. In 2003, the bank provided approximately \$7.3 million in investments, grants, and donations in its assessment areas.

Charter One Bank received an overall “high satisfactory” rating under the service test, which included a review of its branch distribution and product offerings.<sup>41</sup> Examiners reported that Charter One Bank’s branches and delivery systems provided access to financial products and services for consumers of different income levels. They noted that the institution offered specific products

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population of 50 percent or more.

<sup>41</sup> One commenter asserted that Charter One does not adequately serve LMI individuals due to an insufficient number of branches and inadequate marketing and product offerings.

designed for LMI individuals and communities, including its Totally Free Checking Account that featured a \$50 minimum balance and no check-writing charges. In addition, they reported that Charter One Bank employed bilingual staff at selected locations in Cleveland, New York, and Michigan and operated a customer call center that could translate calls into more than 140 languages. Examiners also favorably noted that Charter One Bank participated in the “Cleveland Saves” program, which enables participants to open money market savings accounts with an opening balance of only \$10. In several of its Ohio assessment areas, examiners reported that the institution also provided a free check-cashing service for noncustomers at some branches in LMI areas.

In several MSAs, Charter One also provided community development services through its participation in the Federal Home Loan Bank (“FHLB”) Affordable Housing Programs. Examiners commended Charter One Bank for taking a leadership role in providing community development services, noting specifically the involvement of its employees with organizations that promoted or provided affordable housing for LMI individuals and the technical assistance it provided to community development organizations applying to the FHLB Affordable Housing Programs.

#### D. HMDA, Subprime, and Fair Lending Records

The Board has carefully considered the lending records of Citizens Financial and Charter One in light of comments received on the HMDA data for 2001 and 2002 reported by the banks and their subsidiaries.<sup>42</sup> Several commenters

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<sup>42</sup> The Board analyzed HMDA data for 2001, 2002, and 2003 from the Citizens Banks and Charter One Bank. This review included HMDA data for loan originations in a number of individual MSAs, as well as in the metropolitan portions of Citizens Banks’ and Charter One Bank’s assessment areas statewide.

alleged that the denial disparity ratios<sup>43</sup> for some Citizen Banks and Charter One Bank in certain MSAs indicated that they disproportionately denied or excluded African-American and Hispanic applicants for home mortgage loans.<sup>44</sup> The Board considered substantially similar comments about the HMDA-reportable lending of the Citizens Banks to African Americans and Hispanics in Delaware, Pennsylvania, Massachusetts, and Rhode Island in the Port Financial and Thistle Orders, and those analyses are incorporated herein by reference.<sup>45</sup>

As noted in these Orders, the Citizens Banks' denial disparity ratios for African-American and Hispanic applicants in 2002 were generally lower than or comparable with those ratios for the aggregate of lenders ("aggregate lenders") in each of the markets reviewed.<sup>46</sup> In their Rhode Island, Massachusetts, and Connecticut statewide assessment areas, the Citizens New England Banks' denial disparity ratios for African-American and Hispanic applicants in 2002 were lower than those ratios for the aggregate lenders in these assessment areas. In their Delaware and Pennsylvania statewide assessment areas, Citizens DE's and Citizens

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<sup>43</sup> The denial disparity ratio equals the denial rate for a particular racial category (for example, African Americans) divided by the denial rate for whites.

<sup>44</sup> Commenters used 2002 HMDA data to allege that Citizens Banks denied home mortgage loan applications from African Americans and Hispanics more frequently than applications from nonminorities in MSAs in Delaware, Pennsylvania, Massachusetts, and Rhode Island. Some commenters alleged that Charter One Bank denied home mortgage loan applications from African Americans and Hispanics more frequently than applications from nonminorities in certain other markets. In addition, several commenters expressed concern that Charter One Bank was originating fewer loans to LMI individuals and in LMI and minority census tracts than the aggregate of lenders throughout its assessment areas.

<sup>45</sup> See Port Financial Order, supra at 388; Thistle Order, supra at 90.

<sup>46</sup> The lending data of the aggregate lenders represent the cumulative lending for

PA's denial disparity ratios for African-American and Hispanic applicants in 2002 were lower than or comparable with those ratios for the aggregate lenders in these assessment areas.

In 2003, the Citizens Banks' HMDA data show that their overall volume of applications and originations increased substantially, including their total HMDA-reportable loans originated to African-American and Hispanic applicants. In addition, the denial disparity ratios of the Citizens Banks generally approximated the ratios for the aggregate lenders in their statewide assessment areas in 2003.

Charter One Bank's 2002 HMDA data indicate that its denial disparity ratios for African-American and Hispanic applicants were generally higher than those ratios for the aggregate lenders in each of the markets reviewed, but the bank's denial disparity ratios generally improved somewhat in 2003. In 2002, the percentage of Charter One Bank's total HMDA-reportable loans originated to Hispanics was comparable with the percentage for the aggregate lenders in the MSAs reviewed. However, the percentage of Charter One Bank's total HMDA-reportable loans originated to African Americans was lower than the percentage for the aggregate lenders in 2002 in a majority of the MSAs reviewed. Although the bank's percentage of total HMDA-reportable loan originations to borrowers in LMI census tracts generally lagged the percentage for the aggregate lenders in the areas reviewed, its percentage of total HMDA-reportable loan originations to LMI individuals generally was comparable with or exceeded the percentages for the aggregate lenders.

The 2003 HMDA data indicate that Charter One Bank improved its lending to minority and LMI individuals and to borrowers in LMI and minority

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all financial institutions that have reported HMDA data in a given market.

census tracts.<sup>47</sup> The percentage of the bank's total HMDA-reportable loans originated to African Americans more closely approximated the percentage for the aggregate lenders in most of the MSAs reviewed and exceeded their percentages in Albany and Rochester. Charter One Bank's percentage of total HMDA-reportable loan originations for borrowers in LMI census tracts similarly improved in 2003. Charter One Bank supplemented its loan originations by purchasing a number of HMDA-reportable loans to LMI and minority individuals and to borrowers in LMI and minority census tracts. The Board also has consulted with the OCC, which is monitoring Charter One Bank's lending to minorities and in LMI and minority census tracts.

Although the HMDA data may reflect certain disparities in the rates of loan applications, originations, and denials among members of different racial groups and persons at different income levels in certain local areas, the HMDA data generally do not indicate that Charter One Bank or the Citizens Banks are excluding any race or income segment of the population or geographic areas on a prohibited basis. The Board is concerned when the record of an institution indicates disparities in lending and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending, but also equal access to credit by creditworthy applicants regardless of

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<sup>47</sup> One commenter criticized Charter One Bank for relying on loan purchases instead of directly originating loans in LMI and minority areas. The federal regulatory agencies' regulations that implement the CRA do not differentiate between loan originations and purchases for purposes of evaluating an institution's CRA lending performance. See, e.g., 12 C.F.R. 228.22. The commenter also urged Charter One to increase its outreach efforts to underserved communities and to use more flexible underwriting standards to increase its loan originations to LMI and minority borrowers. Citizens Financial represented that it plans to increase Charter One Bank's home mortgage loan originations.

race or income level. The Board recognizes, however, that HMDA data alone provide an incomplete measure of an institution's lending in its community because these data cover only a few categories of housing-related lending and provide only limited information about covered loans.<sup>48</sup> Moreover, HMDA data indicating that one affiliate is lending to minorities or LMI individuals more than another affiliate do not, without more information, indicate that either affiliate has engaged in illegal discriminatory lending activities.

Because of the limitations of HMDA data, the Board has considered these data carefully in light of other information, including examination reports that provide on-site evaluations of compliance with fair lending laws by the Citizens Banks, Charter One Bank, and their lending subsidiaries. Examiners found no evidence of prohibited discrimination or other illegal credit practices at any of these institutions at their most recent CRA performance evaluations.

The record also indicates that Charter One and Citizens Financial have taken several affirmative steps to ensure compliance with fair lending laws. Charter One has instituted corporate-wide policies and procedures to help ensure compliance with all fair lending and other consumer protection laws and regulations. Charter One's compliance program includes compliance file reviews, an antipredatory-lending policy, a fair-lending policy, product guides, and credit counseling.<sup>49</sup>

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<sup>48</sup> The data, for example, do not account for the possibility that an institution's outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. Credit history problems and excessive debt levels relative to income (reasons most frequently cited for a credit denial) are not available from HMDA data.

<sup>49</sup> Commenters asserted that CMC has referral relationships with at least three

Citizens Financial also has a centralized compliance function and has implemented corporate-wide compliance policies and procedures to help ensure that all Citizens Financial's business lines, including those offered by the Citizens Banks and CMC, comply with fair lending and other consumer protection laws and regulations. It employs compliance officers and staff responsible for compliance training and monitoring, and conducts file reviews for compliance with federal and state consumer protection laws and regulations for all product lines and sources of loan originations. Citizens Financial also regularly performs self-assessments of its fair-lending-law compliance and fair-lending-policy training for its employees. Citizens Financial stated that its compliance program would be implemented at Charter One after consummation of the proposal.

The Board also has considered the HMDA data in light of other information, including the CRA performance records of the Citizens Banks and Charter One Bank. These records demonstrate that Citizens Financial and Charter One are active in helping to meet the credit needs of their entire communities.

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high-cost subprime lenders and that CMC has failed to implement adequate safeguards to ensure that it does not have relationships with lenders that violate consumer protection laws and regulations or otherwise engage in illegal predatory lending. Citizens Financial stated that CMC does not originate high-cost loans and that CMC uses conventional underwriting standards to determine whether a borrower qualifies for a conforming loan, coupled with a second-review procedure to ensure that all applicants who qualify for a conforming loan are offered one. If CMC is unable to offer a conforming loan to an applicant, it delivers the application to an unaffiliated investor or lender who uses its own underwriting criteria to decide whether to offer a loan to the applicant. Citizens Financial also represented that CMC has no involvement in the underwriting processes or credit decisions of the unaffiliated investors or lenders. The unaffiliated investor or lender, however, is selected under objective criteria for determining that the investor or lender can meet the credit needs of the borrower. In addition, Citizens Financial represented that CMC attempts to help customers to resolve issues with those investors or lenders if requested.

#### E. Branch Closings

The Board has considered the commenters' concerns about possible branch closings in light of all the facts of record. One commenter expressed concern about Citizens Financial's closure of branches after other acquisitions. In addition, several commenters requested RBS to commit to maintaining its branches in LMI and minority census tracts. Citizens Financial stated that it does not currently anticipate closing, relocating, or consolidating any branch of Charter One Bank or the Citizens Banks in connection with this proposal. Moreover, Citizens Financial indicated that it intends to continue Charter One Bank's plans to expand in LMI markets by opening new branches inside retail outlets in LMI census tracts. The Board has considered Citizens Financial's branch closing policy and its record of opening and closing branches. Examiners reviewed the Citizen Banks' branch closing policy as part of the most recent CRA evaluations of each bank and found that it complied with federal law.

The Board also has considered the fact that federal banking law provides a specific mechanism for addressing branch closings.<sup>50</sup> Federal law requires an insured depository institution to provide notice to the public and to the appropriate federal supervisor before closing a branch. Citizens Financial represented that if it decides to close, relocate, or consolidate any branch of the Citizens Banks or Charter One Bank in connection with this proposal, it will comply with all applicable requirements of federal and state law. The Board notes

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<sup>50</sup> Section 42 of the Federal Deposit Insurance Act (12 U.S.C. § 1831r-1), as implemented by the Joint Policy Statement Regarding Branch Closings (64 Federal Register 34,844 (1999)), requires that a bank provide the public with at least 30 days' notice and the appropriate federal supervisory agency and customers of the branch with at least 90 days' notice before the date of the proposed branch closing. The bank also is required to provide reasons and other supporting data for the closure, consistent with the institution's written policy for branch closings.



that the FDIC and the OCC, as the appropriate federal supervisors of the Citizens Banks and Charter One Bank, respectively, will continue to review each bank's branch closing record in the course of conducting CRA performance evaluations.

F. Conclusion on Convenience and Needs Factor

The Board has carefully considered all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by Charter One and Citizens Financial, comments received on the proposal, confidential supervisory information, and Citizens Financial's plans to implement its CRA-related policies, procedures, and programs at Charter One Bank.<sup>51</sup> The Board notes that the proposal would provide Charter One's customers

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<sup>51</sup> Commenters alleged that RBS Group has indirectly supported "predatory lending" by a number of unaffiliated consumer lenders through the securitization activities and warehouse lending services of its subsidiaries, Greenwich Capital and Financial Assets Securities Corp., also in Greenwich ("FASC"). Applicants stated that Greenwich Capital underwrites securities backed by mortgage loans, including subprime mortgage loans originated by unaffiliated third parties. In addition, Greenwich Capital and its affiliate, Greenwich Capital Financial Products, Inc., Greenwich ("GCFP"), provide warehouse financing and repurchase facilities to unaffiliated mortgage originators, including some engaged in subprime lending. Greenwich Capital also has invested in securities backed by subprime loan pools that are issued by unaffiliated parties. Applicants stated that Greenwich Capital, GCFP, FASC, and Citizens Financial do not play any formal or informal role in the unaffiliated lenders' loan origination processes, lending practices, or credit-approval processes. Applicants also stated that Greenwich Capital conducts due diligence reviews in connection with its securitization activities that typically include evaluations to determine if the lenders are complying with federal and state laws. The Board previously considered these allegations in the Thistle, Port Financial, and Mellon Orders, and hereby affirms and adopts its findings in those orders. See Thistle Order, supra at 91 n.30; Port Financial Order, supra at 389 n.22; Mellon Order, supra at 57 n.30. The commenters have not provided any new material information that would warrant a different conclusion in this proposal. Moreover, the Board notes that the Federal Trade Commission, Department of Housing and Urban Development, and Department of Justice have responsibility for enforcing compliance with fair lending laws by nondepository

with access to a broader array of products and services in an expanded service area, including access to an expanded branch and ATM network and internet banking services. Based on a review of the entire record, and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs factor, including the CRA performance records of the relevant depository institutions, are consistent with approval.

### Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application should be, and hereby is, approved.<sup>52</sup>

In reaching its conclusion, the Board has considered all the facts of record in light

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institutions and to date have not found any violations of fair lending laws by these companies.

<sup>52</sup> Several commenters requested that the Board hold a public meeting or hearing on the proposal. Section 3(b) of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a timely written recommendation of denial of the application. The Board has not received such a recommendation from the appropriate supervisory authorities. Under its regulations, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if a meeting or hearing is necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 C.F.R. 225.16(e). The Board has considered carefully the commenters' requests in light of all the facts of record. In the Board's view, the commenters had ample opportunity to submit their views and have submitted written comments that have been considered carefully by the Board in acting on the proposal. The commenters' requests fail to demonstrate why written comments do not present their evidence adequately and fail to identify disputed issues of fact that are material to the Board's decision that would be clarified by a public meeting or hearing. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing is not required or warranted in this case. Accordingly, the requests for a public meeting or hearing on the proposal are denied.

of the factors that it is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by Applicants with the conditions imposed in this order and the commitments made to the Board in connection with the application. For purposes of this action, these commitments and conditions are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

The acquisition of Charter One Bank shall not be consummated before the fifteenth calendar day after the effective date of this order or later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Boston, acting pursuant to delegated authority.

By order of the Board of Governors,<sup>53</sup> effective August 16, 2004.

(signed)

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Robert deV. Frierson  
Deputy Secretary of the Board

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<sup>53</sup> Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Bies, Bernanke, and Kohn. Absent and not voting: Governor Olson.

## APPENDIX A

### Banking Markets in which Citizens Financial and Charter One Compete Directly

#### Springfield, Massachusetts

The towns of Agawam, Amherst, Belchertown, Blanford, Chester, Chesterfield, Chicopee City, Cummington, Deerfield, Easthampton, East Longmeadow, Granby, Feeding Hills, Goshen, Granville, Hadley, Hampden, Hatfield, Holyoke City, Huntington, Leverett, Longmeadow, Ludlow, Monson, Montgomery, Northampton City, Palmer, Pelham, Plainfield, Russell, Springfield City, South Hadley, Shutesbury, Southampton, Southwick, Sunderland, Three Rivers, Tolland, Ware, Warren, Westfield City, Westhampton, West Springfield, Whately, Wilbraham, Williamsburg, and Worthington.

#### Hanover-Lebanon, New Hampshire

New Hampshire portion: the towns of Canaan, Enfield, Grafton, Hanover, Lebanon, Lyme, Orange, Orford, and Piermont in Grafton County; the towns of Grantham and Plainfield in Sullivan County.

Vermont portion: the towns of Bradford, Corinth, Fairlee, Strafford, Thetford, Vershire, and West Fairlee in Orange County; and the towns of Hartford, Hartland, Norwich, Sharon, West Windsor, and Windsor in Windsor County.

#### Brattleboro, Vermont

Vermont portion: the towns of Brattleboro, Brookline, Dummerston, Guilford, Halifax, Marlboro, Newfane, Putney, Townsend, and Vernon in Windham County.

New Hampshire portion: the town of Hinsdale in Cheshire County.

#### Worcester, Massachusetts

Massachusetts portion: the towns of Auburn, Barre, Boylston, Brimfield, Brookfield, Charlton, Clinton, Douglas, Dudley, East Brookfield, Grafton, Holden, Holland, Hubbardston, Leicester, Millbury, New Braintree, Northboro, North Brookfield, Northbridge, Oakham, Oxford, Paxton, Princeton, Rochdale, Rutland, Shrewsbury, Southbridge, Spencer, Sterling, Sturbridge, Sutton, Uxbridge, Wales,

Webster, Westboro, West Brookfield, West Boylston, Whitinsville, and Worcester City.

Connecticut portion: the town of Thompson.

Pittsfield, Massachusetts

Massachusetts portion: the towns of Adams, Becket, Cheshire, Clarksburg, Dalton, Florida, Hancock, Hinsdale, Lanesboro, Lee, Lenox, Middlefield, Monroe, New Ashford, North Adams, Peru, Pittsfield City, Richmond, Savoy, Stockbridge, Tyngham, Washington, West Stockbridge, Williamstown, and Windsor.

Vermont portion: the towns of Readsboro and Stamford.

Boston, Massachusetts

Massachusetts portion: the towns of Abington, Acton, Allston, Amesbury, Andover, Arlington, Ashburnham, Ashby, Ashland, Auburndale, Avon, Ayer, Bedford, Bellingham, Belmont, Berkley, Berlin, Beverly City, Billerica, Blackstone, Bolton, Boston City, Boxboro, Boxford, Braintree, Bridgewater, Brighton, Brockton City, Brookline, Burlington, Cambridge, Canton, Carlisle, Carver, Charlestown, Chelmsford, Chelsea, Chester, Chestnut Hill, Cochituate, Cohasset, Concord, Danvers, Dedham, Dighton, Dorchester, Dover, Dracut, Dunstable, Duxbury, East Bridgewater, East Maynard, Easton, East Weymouth, Essex, Everett, Fitchburg City, Foxboro, Framingham, Franklin, Fremont, Gardner City, Georgetown, Gloucester City, Groton, Grove Hall, Groveland, Halifax, Hamilton, Hanover, Hanson, Harvard, Haverhill City, Hingham, Holbrook, Holliston, Hopedale, Hopkinton, Hudson, Hull, Hyde Park, Ipswich, Jamaica Plain, Kingston, Lakeville, Lancaster, Lawrence City, Leominster City, Lexington, Lincoln, Littleton, Lowell City, Lunenburg, Lynn, Lynnfield, Malden, Manchester, Manomet, Mansfield, Marblehead, Marlborough City, Marshfield, Mattapan, Maynard, Medfield, Medford, Medway, Melrose, Mendon, Merrimac, Methuen, Middleboro, Middleton, Milford, Millis, Millville, Milton, Nahant, Natick, Needham, Newbury, Newburyport City, Newton City, Newtonville, Norfolk, North Abington, North Andover, North Beverly, North Chelmsford, North Easton, North Plymouth, North Norton, North Waltham, Norwell, Norwood, Peabody City, Pembroke, Pepperell, Plainville, Plymouth, Plympton, Quincy, Randolph, Raymond, Raynham, Reading, Readville, Revere, Rockland, Rockport, Rowley, Roxbury, Salem City, Salisbury, Saugus, Scituate, Sharon, Sherborn, Shirely, Somerville, Southborough, Stoneham, Stoughton, Stow, Sudbury, Swampscott, Taunton City, Templeton, Tewksbury, Topsfield, Townsend, Tyngsboro, Upton, Waban, Wakefield, Walpole, Waltham City, Wareham, Watertown, Wayland, Wellesley, Wentham, West Bridgewater, West Newbury, Westford, Westminster,

Weston, Westwood, Weymouth, Whitman, Wilmington, Winchendon, Winchester, Winthrop, Woburn, Wollaston, and Wrentham.

New Hampshire portion: the towns of Amherst, Atkinson, Brookline, Chester, Danville, Derry, East Hamstead, Fremont, Greenville, Hampstead, Hollis, Hudson, Kingston, Litchfield, Lyndeboro, Mason, Merrimac, Milford, Mount Vernon, Nashua City, New Ipswich, Newton, Pelham, Plaistow, Raymond, Salem, Sandown, Seabrook, South Hampton, Wilton, and Windham.

#### Hartford, Connecticut

The towns of Andover, Ashford, Avon, Barkhamsled, Berlin, Bloomfield, Bolton, Bristol City, Broad Brook, Burlington, Canton, Chaplin, Colchester, Collinsville, Columbia, Coventry, Cromwell, Durham, East Granby, East Haddam, East Hampton, East Hartford, East Windsor, Ellington, Enfield, Farmington, Forestville, Glastonbury, Granby, Haddam, Hampton, Hartford City, Hartland, Harwinton, Hebron, Higganum, Kensington, Lebanon, Manchester, Mansfield, Marlborough, Middlefield, Middletown City, Moodus, New Britain City, New Hartford, Newington, North Windham, Plainville, Plantsville, Plymouth, Poquonock, Portland, Rockville City, Rocky Hill, Scotland, Simsbury, Somers, South Glastonbury, South Windsor, Southington, Southingtonboro, Stafford, Stafford Springs, Storrs, Storrs Mansfield, Suffield, Terryville, Thompsonville, Tolland, Union, Vernon, Vernon-Rockville, Warehouse Point, West Hartford, West Suffield, West Willington, Wethersfield, Willimantic City, Willington, Winchester, Windham, Windsor, Windsor Locks, and Winsted City.

#### Metropolitan New York Area

New York portion: the counties of Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester.

New Jersey portion: the counties of Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren and the townships of Mercer County: East Windsor, Hightstown, Hopewell, Pennington, Princeton, Princeton Borough, Washington (excluding the city of Robbinsville), and West Windsor.

Pennsylvania portion: Pike County.

Connecticut portion: Fairfield County; the townships of Bridgewater, Canaan, Kent, New Milford, Roxbury, Salisbury, and Sharon in Litchfield County; the

cities of Cornwall Bridge, Falls Village, Lakeville, Marble Dale, New Preston, and Washington Depot in Litchfield County; and the townships of Ansonia, Beacon Falls, Derby, Milford, Oxford, and Seymour in New Haven County.

Erie, Pennsylvania

Erie County; the townships of Bloomfield and Sparta in Crawford County; and the townships of Columbus and Spring Creek in Warren County.

## APPENDIX B Market Data

### Unconcentrated Banking Markets

#### *Metropolitan New York Area*

Citizens Financial operates the 155<sup>th</sup> largest depository institution in the market, controlling deposits of \$147 million, which represent less than 1 percent of market deposits. Charter One has approval to operate four de novo branches and has opened two of the branches in the banking market since March 31, 2004, and Citizens Financial has three branches. FDIC deposit data reflecting the deposits of Charter One's branches are not yet available. After the proposed merger, 267 depository institutions would remain in the banking market. The Board has considered Citizens Financial's deposits in the market, the number of competing institutions and the deposits controlled by those institutions, and the recent entry of Charter One's branches. As noted, the Board concludes that consummation of the proposal would have a de minimis effect in the Metropolitan New York Area banking market. The HHI would remain unchanged at 971.

### Moderately Concentrated Banking Markets

#### *Springfield, Massachusetts*

Citizens Financial operates the 16<sup>th</sup> largest depository institution in the market, controlling deposits of \$82.5 million, which represent approximately 1 percent of market deposits. Charter One operates the third largest depository institution in the market, controlling deposits of \$416.7 million, which represent approximately 7 percent of market deposits. After the proposed merger, Citizens Financial would operate the third largest depository institution in the market, controlling deposits of approximately \$499.4 million, which represent approximately 7.8 percent of market deposits. Twenty-three depository institutions would remain in the banking market. The HHI would increase by 17 points to 1155.

#### *Hanover-Lebanon, New Hampshire*

Citizens Financial operates the third largest depository institution in the market, controlling deposits of \$121.6 million, which represent approximately 13 percent of market deposits. Charter One operates the fifth largest depository institution in the market, controlling deposits of \$81.2 million, which represent approximately 8 percent of market deposits. After the proposed merger, Citizens



Financial would operate the third largest depository institution in the market, controlling deposits of \$202.8 million, which represent approximately 21.2 percent of market deposits. Eleven depository institutions would remain in the banking market. The HHI would increase by 215 points to 1653.

*Worcester, Massachusetts*

Citizens Financial operates the 15<sup>th</sup> largest depository institution in the market, controlling deposits of \$69 million, which represent approximately 1.2 percent of market deposits. Charter One opened a de novo branch in the market on July 1, 2003, and Citizens Financial has six branches. FDIC deposit data reflecting the deposits of Charter One's branch are not yet available. After the proposed merger, 28 depository institutions would remain in the banking market. The Board has considered Citizens Financial's deposits in the market, the number of competing institutions and the deposits controlled by those institutions, and the recent entry of Charter One's branch. As noted, the Board concludes that consummation of the proposal would have a de minimis effect in the Worcester banking market. The HHI would remain unchanged at 1,163.

*Pittsfield, Massachusetts*

Citizens Financial operates the 10<sup>th</sup> largest depository institution in the market, controlling deposits of \$19.5 million, which represent approximately 1.2 percent of market deposits. Charter One opened a de novo branch in the market on August 28, 2003, and Citizens Financial has four branches. FDIC deposit data reflecting the deposits of Charter One's branch are not yet available. After the proposed merger, ten depository institutions would remain in the banking market. The Board has considered Citizens Financial's deposits in the market, the number of competing institutions and the deposits controlled by those institutions, and the recent entry of Charter One's branch. As noted, the Board concludes that consummation of the proposal would have a de minimis effect in the Pittsfield banking market. The HHI would remain unchanged at 1,569.

*Boston, Massachusetts*

Citizens Financial operates the second largest depository institution in the market, controlling deposits of \$18.3 billion, which represent approximately 14.2 percent of market deposits. Charter One opened a de novo branch in the market on July 18, 2003, and Citizens Financial has 192 branches. FDIC deposit data reflecting the deposits of Charter One's branch are not yet available. After the proposed merger, 172 depository institutions would remain in the banking market. The Board has considered Citizens Financial's deposits in the market, the number of competing institutions and the deposits controlled by those institutions, and the

recent entry of Charter One's branch. As noted, the Board concludes that consummation of the proposal would have a de minimis effect in the Boston banking market. The HHI would remain unchanged at 1,307.

#### *Erie, Pennsylvania*

Citizens Financial operates the fourth largest depository institution in the market, controlling deposits of \$310 million, which represent approximately 12.4 percent of market deposits. Charter One opened two de novo branches in the market on September 19, 2003, and Citizens Financial has 11 branches. FDIC deposit data reflecting the deposits of Charter One's branches are not yet available.

After the proposed merger, nine depository institutions would remain in the banking market. The Board has considered Citizens Financial's deposits in the market, the number of competing institutions and the deposits controlled by those institutions, and the recent entry of Charter One's branches. As noted, the Board concludes that consummation of the proposal would have a de minimis effect in the Erie banking market. The HHI would remain unchanged at 1,739.

#### Highly Concentrated Banking Markets

##### *Brattleboro, Vermont*

Citizens Financial operates the sixth largest depository institution in the market, controlling deposits of \$11.7 million, which represent approximately 2.6 percent of market deposits. Charter One operates the third largest depository institution in the market, controlling deposits of \$46.8 million, which represent approximately 10.5 percent of market deposits. After the proposed merger, Citizens Financial would operate the third largest depository institution in the market, controlling deposits of \$58.5 million, which represent approximately 13.1 percent of market deposits. Six depository institutions would remain in the banking market. The HHI would increase by 55 points to 2,625.

##### *Hartford, Connecticut*

Citizens Financial operates the seventh largest depository institution in the market, controlling deposits of \$653 million, which represent approximately 3.3 percent of market deposits. Charter One has opened five de novo branches in the market since January 20, 2004, and Citizens Financial has 11 branches. FDIC deposit data reflecting the deposits of Charter One's branches are not yet available.

After the proposed merger, 34 depository institutions would remain in the banking market. The Board has considered Citizens Financial's deposits in the market, the number of competing institutions and the deposits controlled by those institutions, and the recent entry of Charter One's branches. As noted, the Board concludes that

consummation of the proposal would have a de minimis effect in the Hartford banking market. The HHI would remain unchanged at 2,490.

APPENDIX C

CRA Performance Evaluations of Citizens Financial

<u>Subsidiary Bank</u>	<u>CRA Rating</u>	<u>Date</u>	<u>Supervisor</u>
1. Citizens Bank of Massachusetts, Boston, Massachusetts	Outstanding	February 2000	FDIC
2. Citizens Bank of Rhode Island, Providence, Rhode Island	Outstanding	February 2000	FDIC
3. Citizens Bank of New Hampshire, Manchester, New Hampshire	Outstanding	February 2000	FDIC
4. Citizens Bank of Pennsylvania, Philadelphia, Pennsylvania	Outstanding	February 2000	FDIC
5. Citizens Bank of Connecticut, Hartford, Connecticut	Outstanding	February 2000	FDIC
6. Citizens Bank of Delaware, Wilmington, Delaware	Outstanding	February 2000	FDIC
7. Boston Trust & Management Investment Company, Boston, Massachusetts	Outstanding	February 2000	State of Massachusetts